

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 19493 (Application 28075)

**Florence Rolleri, Lillian Rolleri and Nat Merlo**

**ORDER REVOKING PERMIT**

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SOURCES: (1) Unnamed Stream tributary to Pilarcitos Creek  
(2) Pilarcitos Creek

COUNTY: San Mateo

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**WHEREAS:**

Pursuant to sections 1410-1410.2 of the California Water Code, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), is revoking Permit 19493 because the Permittees have failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 19493 and have not made beneficial use of the water in accordance with the permit, the Water Code, and the State Water Board's regulations. In addition, the Division proposes to revoke Permit 19493 because the Permittees have failed to use beneficially all or part of the water for the purpose for which it was appropriated in accordance with the Water Code.

The proposed revocation is based upon the following facts, information and conclusions:

The Permittees have not shown that due diligence has been exercised.

1. The State Water Board issued Permit 19493 to California Evergreen Nurseries, Inc. on June 7, 1985. The State Water Board assigned the permit to Florence Rolleri, Lillian Rolleri and Nat Merlo on March 12, 1991, subject to the terms and conditions listed in the permit.
2. The permit requires that Permittees complete construction work by December 1, 1986. The Permittees did not complete construction by this date.
3. The permit requires that Permittees make use of the water authorized under the permit by December 1, 1987. The Permittees did not make full use of water by this date.
4. An order approving a new development schedule was issued on September 13, 1988, extending the date to complete full, beneficial use to December 31, 1992. The Permittees did not complete full, beneficial use of water by this date.
5. Division staff inspected the project on August 26-27, 1996. The Division staff inspection report states that the project is complete, but Reservoirs A and B as constructed are small enough that their capacities are fully covered by companion Permit 17849 (Application 25407). Consequently, no diversion and use of water was occurring under Permit 19493, and Division staff recommended revocation of the permit.
6. The Permittees submitted a Petition for Extension of Time dated September 15, 2000 to the Division. The petition is incomplete because no responses were given to questions 4 through 16 on the form regarding the quantity of water used, length of extension requested, etc.

7. In the petition, the Permittees state that project ownership changed due to death of the prior owners.
8. Division staff required, by letter dated December 13, 2004, that the following information be submitted by January 12, 2005:
  - a. Define the proposed new project.
  - b. Locate all reservoirs on a U.S. Geological Survey quadrangle map.
  - c. Describe the facilities (dam length, surface area, storage capacity).
  - d. Provide a showing of cause for the State Water Board to approve a time extension, (section 844, Title 23, California Code of Regulations).
9. The Permittees did not respond to the Division's December 13, 2004 letter. None of the required information was submitted to the Division by the January 12, 2005 deadline.
10. On August 8, 2005, the Division denied the petition for time extension because Permittee failed to show: (1) that Permittees exercised due diligence; (2) that failure to comply with previous time requirements was the result of obstacles that could not be reasonably avoided; and (3) that satisfactory progress would be made if the Division granted the extension.
11. The time to complete full beneficial use ended in 1992, and the Division has documented that no water diversion and use has occurred pursuant to the permit. (Inspection Report, August 26-27, 1996.) There is no valid time extension for the permit.

On August 12, 2008, the Division issued a Notice of Proposed Revocation to Permittees by certified mail. The notice provided that unless the Division received a written request for a hearing signed by or on behalf of the Permittees within 15 days after receipt by the Permittees of the notice, the State Water Board could act upon the proposed revocation of the permit without a hearing. Permittees did not submit a request for a hearing to the Division within the time period provided.

**THEREFORE:**

Based on the above facts and information, the Division hereby revokes Permit 19493 pursuant to Water Code section 1410, subdivision (a) because Permittees have failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Permit 19493 and have failed to apply to beneficial use all or part of the water authorized for appropriation as contemplated in the permit and in accordance with the Water Code and the regulations of the State Water Board.

**STATE WATER RESOURCES CONTROL BOARD**

Original Signed by: SRH for

*Victoria A. Whitney, Chief*  
*Division of Water Rights*

Dated: December 15, 2008

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